

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Michael Holt,

Plaintiff,

v.

William Melendez, *et al.*,

Defendants.

Case No. 03-72610

Honorable Arthur J. Tarnow
United States District Judge

Magistrate Judge Steven D. Pepe

**ORDER GRANTING PLAINTIFF'S MOTION FOR REINSTATEMENT OF THE CASE
[# 77] AS TO DEFENDANTS ZANI AND DIAZ**

On November 8, 2005, this Court issued an order dismissing the case against remaining Defendants Diaz and Zani for failure to prosecute under Federal of Civil Procedure Rule 41(b). The order allowed the remaining claims against Defendants Zani and Diaz to be reinstated if Plaintiff paid Defendants \$2,000 within ten days of its filing. According to both Plaintiff and Defendants, Plaintiff's attorney complied by paying Defendants \$2,000 within ten days of the order's filing.

Although "Plaintiff attorney... contends that a letter was mailed to the Court indicating such payment being made," this Court never received notice that Plaintiff complied with the reinstatement order. As a result, an order was entered dismissing as moot Plaintiff's Motion for Relief from Judgment for Partial Summary Disposition. The scheduled trial dates, the final pretrial conference, and the due date for the final pretrial order were all cancelled.

On December 21, 2005, Plaintiff manually filed a Motion for Reinstatement of the Case, in violation of Local Rule 5.1.1 which requires all court papers to be filed electronically. The motion alerted the Court that Plaintiff had complied with the earlier Order for Reinstatement and

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requested that the case be reinstated.

A there are no objections by Defendants Diaz and Zani, the claims that were not summarily dismissed against Defendants Diaz and Zani on September 21, 2005 shall be reinstated. This Order does not affect the Court's August 17, 2005 Order Dismissing all other named Defendants from the case. They remain dismissed from the case.

The following scheduling dates will apply. A motion hearing on Plaintiff's Motion for Relief For Judgment For Summary Partial Disposition from the September 21, 2005 Order is set for February 10, 2006 @ 10:00 am. Defendants have until February 2, 2006 to file a response, if they decide to respond. The final pretrial order is due on March 20, 2006. The final pretrial/settlement conference will be held on March 27, 2006 @ 2:00 pm. The trial will begin on April 3, 2006 @ 8:00 am.

Plaintiff's attorney's failure to comply with any of these Court ordered deadlines, will again cause this case to be dismissed but this time with prejudice.

Both attorneys are also ordered to comply with all local rules, including Local Rule 5.1.1.

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Court

Date: January 6, 2006